IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CWP No.1191 of 2005

Date of Decision: 9.11.2006

Des Raj .....Petitioner

Versus

The State of Punjab and others .....Respondents

CORAM:- HON'BLE MR.JUSTICE J. S. KHEHAR
HON'BLE MR.JUSTICE S. D. ANAND

Present: Mr.NL Sammi, Advocate
for the petitioner.

Mr.Ashok Aggarwal, Additional AG Punjab for respondents No.1 to 4.

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J.S.KHEHAR, J.

The petitioner was inducted into the service of the respondents as Fitter on 1.4.1978 and thereafter, promoted as Fitter, Grade-I on 1.4.1986. The petitioner earlier approached this Court by filing Civil Writ Petition No.7381 of 1998 claiming promotion against the post of Junior Engineer. The aforesaid writ petition was disposed on 21.1.2003 with a direction to the respondents to consider the claim of the petitioner for promotion according to the rules. It is the vehement contention of the learned counsel for the petitioner that despite a clear direction of this Court, the claim of the petitioner was not considered as it ought to have been. Be that as it may, learned counsel for the petitioner has invited our attention to the Office order dated 11.8.2003, issued by the Office of the Chief Engineer

(North) Punjab wherein it was concluded that the claim of the petitioner had been considered under the provisions of the relevant rules and that the petitioner was found ineligible for promotion for the post of Junior Engineer. In order to substantiate his claim, the petitioner has extracted Rule 8(b) of the Punjab Department of Public Works Junior Engineer (Public Health Branch) Class III Service Rules, 1991 (hereinafter referred to as 1991 Rules), in paragraph 19 (iii) of the instant writ petition. The same is being extracted hereunder:

> "Rule 8 (b).
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> In the case of Junior Engineer (Mechanical):-
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> i) Eighty percent by direct appointment from amongst the candidate who possess diploma in mechanical Engineering of a recognised university or institution or any other equivalent qualification recognised by the Govt. and
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> ii) Twenty percent by promotion in the following manners:-
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> A) Ten percent from amongst the Mechanic, Chargemen, Pump Operator, Foremen, and Air Conditioner Operator or Air Conditioner Supervisors working under the central of the Chief Engineer who possess certificate of mechanical or Electrical Engineering of any industrial Training Institute and who have an experience of working on any one or more to these posts for a minimum period of ten years and qualify the departmental examination as specified in Rule 9 and
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> B) Ten percent from amongst the Mechanical Chargemen Pump Operators, Foremen, Air Conditioner, Operators or Air Conditioner Mechanic or Air Conditioner Supervisor working

under the control of the Chief Engineer who possess three years diploma in mechanical or electric Engineering of the state Technical Education Board or of any other recognised university or institution and who have an experience of working on any one or more of these posts for a minimum period of 5 years and qualified the departmental examination as specified in Rule 9."

While it is the contention of the learned counsel for the petitioner that the petitioner satisfies and fulfils all the eligibility conditions for promotion to the post of Junior Engineer, the case of the respondents, on the other hand, is that the petitioner does not satisfy any of the conditions of eligibility stipulated thereunder.

For specifics, learned counsel for the petitioner informed this Court that he was claiming eligibility for promotion under Rule 8(iii) of the 1991 Rules. We have perused the same. We are satisfied on a perusal of the same that the petitioner is clearly ineligible for the post of Junior Engineer. Under Rule 8(b)(ii)(A) of the 1991 Rules, 10% from amongst the Mechanic, Chargemen, Pump Operator, Foremen and Air Conditioner Operator or Air Conditional Mechanic or Air Conditioner Supervisors are eligible for the post of Junior Engineer. Since the petitioner was admittedly a Fitter/Fitter, Grade-I, he is not a member of any of the aforesaid feeding cadres. It is, therefore, not possible for us to accept the claim of the petitioner for promotion to the post of Junior Engineer under the aforestated Rule relied upon by the learned counsel for the petitioner. Additionally, we are satisfied that even if the petitioner had been a member of one of the feeding cadres, he ought to have possessed a certificate of Mechanical/Electrical

Engineering from Industrial Training Institute. The certificate possessed by the petitioner to which the learned counsel has invited our attention in support of aforesaid submission is Annexure P3. Its perusal reveals that the petitioner possesses certificate of Fitter trade. Vide Annexure P3/A, it is certified by the Principal ITI, Rajpura that the Fitter trade is an Engineering Trade. Even if that be so, it is not possible for us to conclude that the certificate possessed by the petitioner is that of Mechanical /Electrical Engineering and as such, we are satisfied that the petitioner does not fulfil the conditions for the post of JE under the source of recruitment envisaged under Rule 8(b)(ii)(A) of the 1991 Rules.

For the reasons recorded hereinabove, this writ petition merits dismissal and the same is ordered accordingly.

(J. S. KHEHAR)
JUDGE

(S. D. ANAND)
JUDGE

November 9, 2006
SRM